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Attorneys for Defendants,  
AMERICAN PRESIDENT LINES, LTD.  
HYUNDAI MERCHANT MARINE CO., LTD.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE SWISS COLONY, INC.,

Plaintiff,

-against-

M/V APL GENERAL, her engines, tackle, boiler,  
etc., *in rem*, AMERICAN PRESIDENT LINES, LTD.,  
HYUNDAI MERCHANT MARINE CO., LTD., and  
EXPEDITORS INTERNATIONAL OCEAN,  
*in personam*,

Defendants.

08 Civ. 4824 (MGC)

**ANSWER TO CROSS CLAIM**

NOW COMES Defendants, American President Lines, Ltd. ("APL") and Hyundai Merchant Marine Co., Ltd. ("HMM") (collectively "Defendants"), by and through their attorneys, Holland & Knight LLP, answering the Cross Claims of Co-defendant Expeditors International Ocean ("Expeditors"), and respectfully state upon information and belief:

**AS FOR EXPEDITORS' FIRST CROSS CLAIM**

1. Deny the allegations set forth in paragraph "18" of Expeditors' Cross Claim with respect to Defendants. To the extent allegations are not directed at Defendants, no response is required.

**AS FOR EXPEDITORS' SECOND CROSS CLAIM**

2. Deny the allegations set forth in paragraph "19" of Expeditors' Cross Claim with respect to Defendants. To the extent allegations are not directed at Defendants, no response is required.

**AS FOR EXPEDITORS' THIRD CROSS CLAIM**

3. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in the paragraph "20" of Expeditors' Cross Claim.

4. Deny that APL owned the M/V APL GENERAL. The remaining allegations regarding the M/V APL GENERAL are not directed at the Defendants, thus no response required. Admit the remaining allegations set forth in paragraph "21" of Expeditors' Cross Claim.

5. Deny that HMM operated, managed, chartered, and/or controlled the M/V APL GENERAL. The remaining allegations regarding the M/V APL GENERAL are not directed at the Defendants, thus no response required. Admit the remaining allegations set forth in paragraph "22" of Expeditors' Cross Claim.

6. Admit that this action is a maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and that this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1333. Deny the remaining allegations set forth in paragraph "23" of Expeditors'

Cross Claim, and respectfully refer all questions of law for determination by this Court at the time of trial.

7. Admit that APL issued bill of lading APLU 052351105, dated June 10, 2007, for the carriage of 979 cartons of cargo in container NOLU 455139-5 from Yantian, China to Rochelle, Illinois via Seattle, Washington. Deny that the cargo was in apparent good order and condition. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph "24" of Expeditors' Cross Claim.

8. Deny the allegations set forth in paragraph "25" of Expeditors' Cross Claim.

9. To the extent allegations are not directed at Defendants, no response is required. Deny the remaining allegations set forth in paragraph "26" of Expeditors' Cross Claim.

10. Deny the allegations set forth in paragraph "27" of Expeditors' Cross Claim.

11. Deny the allegations set forth in paragraph "28" of Expeditors' Cross Claim, and respectfully refer all questions of law for determination by this Court at the time of trial.

#### **FIRST AFFIRMATIVE DEFENSE**

12. Defendants allege, by way of an affirmative defense, that HMM is not a proper party to this action, as it did not issue the applicable contract of carriage.

#### **SECOND AFFIRMATIVE DEFENSE**

13. Defendants allege, by way of an affirmative defense, that Expeditors' Cross Claim fails to state a claim upon which relief can be granted.

#### **THIRD AFFIRMATIVE DEFENSE**

14. APL alleges, by way of an affirmative defense, that said shipments described in Expeditors' Cross Claim were subject to all the terms, conditions and exceptions contained in bill of lading APLU 052351105 to which Expeditors agreed to be and is bound. Any shortage, loss

or damage to the shipment, which APL specifically denies, was due to causes for which APL was not liable or responsible by virtue of the provisions of the Carriage of Goods by Sea Act ("COGSA"), *reprinted in* note following 46 U.S.C. § 30701, (formerly 46 U.S.C. § 1301 *et seq.*), and/or the Harter Act, 46 U.S.C. §§ 30702-30707 (formerly 46 U.S.C. App. § 190 *et seq.*) and/or the applicable APL tariffs and/or provisions of the APL bills of lading and/or the general maritime law of the United States.

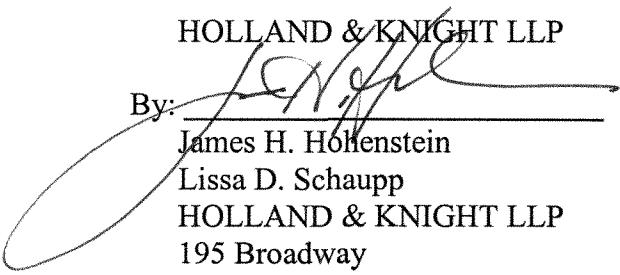
**PRAYER FOR RELIEF**

WHEREFORE, Defendants respectfully request:

1. The Cross Claims against Defendants be dismissed with prejudice and that judgment be entered in favor of Defendants; and,
2. For such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
July 17, 2008

HOLLAND & KNIGHT LLP

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